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Case No. MD-07-L021A

CONSENT AGREEMENT FOR PROBATIONARY LICENSE

Holder of License No. 36865
For the Practice of Allopathic Medicine
In the State of Arizona.

CONSENT AGREEMENT

The Arizona Medical Board ("Board") considered the licensure application ("Application") of Ricky Ochoa, M.D. ("Applicant") at its public meeting on April 11 and 12, 2007. On February 12, 2004 the Board granted Applicant a residency permit and placed him on probation for five years requiring he participate in the Board's Monitored Aftercare Program ("MAP"). Applicant has been compliant with all terms of the probation. On January 21, 2007 Applicant applied for an Arizona allopathic medical license. Applicant truthfully answered all Application questions regarding his past history and current status.

Based on Applicant's prior history, the Board offers Physician a probationary license that requires Applicant participate in MAP for the remaining two years of the five year probationary order issued under his residency permit. Applicant accepts the terms of the probationary license and by mutual agreement and understanding, the parties agree to the following:

1. Applicant has read and understands this Consent Agreement and the stipulated Findings of Fact, Conclusions of Law and Order ("Consent Agreement"). Applicant acknowledges that he has the right to consult with legal counsel regarding this matter.

2. By entering into this Consent Agreement, Applicant voluntarily relinquishes any rights to a hearing or judicial review in state or federal court on the matters alleged, or to challenge this Consent Agreement in its entirety as issued by the Board, and waives any other cause of action related thereto or arising from said Consent Agreement.

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1 3. This Consent Agreement is not effective until approved by the Board and signed by
2 its Executive Director.

3 4. All admissions made by Applicant are solely for licensure. Therefore, said
4 admissions by Applicant are not intended or made for any other use, such as in the context of
5 another state or federal government regulatory agency proceeding, civil or criminal court
6 proceeding, in the State of Arizona or any other state or federal court.

7 5. Applicant understands that if he refused the Board's offer of this Consent
8 Agreements the Board would deny his application and he would be entitled to a formal hearing on
9 the denial.

10 6. Upon signing this agreement, and returning this document (or a copy thereof) to the
11 Board's Executive Director, Applicant may not revoke the acceptance of the Consent Agreement.
12 Applicant may not make any modifications to the document. Any modifications to this original
13 document are ineffective and void unless mutually approved by the parties.

14 7. This Consent Agreement, once approved and signed, is a public record that will be
15 publicly disseminated as a formal action of the Board and will be reported to the National
16 Practitioner Data Bank and to the Arizona Medical Board's website.

17 8. If any part of the Consent Agreement is later declared void or otherwise
18 unenforceable, the remainder of the Consent Agreement in its entirety shall remain in force and
19 effect.

20 9. If the Board does not adopt this Consent Agreement, Respondent will not assert as
21 a defense that the Board's consideration of the Consent Agreement constitutes bias, prejudice,
22 prejudgment or other similar defense.

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RICKY OCHOA, M.D.

Dated: 3/26/07

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1 **ORDER**

2 IT IS HEREBY ORDERED THAT Ricky Ochoa is granted a probationary license subject to
3 the following terms for two years¹ from the effective date of this Order:

4 a. Respondent shall submit quarterly declarations under penalty of perjury on forms
5 provided by the Board, stating whether there has been compliance with all conditions of probation.
6 The declarations shall be submitted on or before the 15th of March, June, September and
7 December of each year, beginning on or before June, 2007.

8 **b.1. Participation.** Respondent shall promptly enroll in and participate in the Board's
9 program for the treatment and rehabilitation of physicians who are impaired by alcohol or drug
10 abuse ("MAP"). Respondent's participation in MAP may be unilaterally terminated with or without
11 cause at the Board's discretion at any time after the issuance of this Order.

12 **2. Relapse Prevention Group.** Respondent shall attend MAP's relapse prevention
13 group therapy sessions one time per week for the duration of this Order, unless excused by the
14 MAP relapse prevention group facilitator for good cause such as illness or vacation. Respondent
15 shall instruct the MAP relapse prevention group facilitators to release to Board Staff, upon
16 request, all records relating to Respondent's treatment, and to submit monthly reports to Board
17 Staff regarding attendance and progress. The reports shall be submitted on or before the 10th
18 day of each month.

19 **3. 12 Step or Self-Help Group Meetings.** Respondent shall attend ninety 12-step
20 meetings or other self-help group meetings appropriate for substance abuse and approved by
21 Board Staff, for a period of ninety days beginning not later than either (a) the first day following
22 Respondent's discharge from chemical dependency treatment or (b) the date of this Order.
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25 ¹ The term of probation will be calculated so that the end date of the probation is five years from the effective date of the February 12, 2004 Order.

1 4. Following completion of the ninety meetings in ninety days, Respondent shall
2 participate in a 12-step recovery program or other self-help program appropriate for substance
3 abuse as recommended by the MAP Director and approved by Board Staff. Respondent shall
4 attend a minimum of three 12-step or other self-help program meetings per week for a total of
5 twelve per month. Two of the twelve meetings must be Caduceus meetings. Respondent must
6 maintain a log of all self-help meetings. Board Staff will provide the log to Respondent.

7 5. Board-Staff Approved Primary Care Physician. Respondent shall promptly
8 obtain a primary care physician and shall submit the name of the physician to Board Staff in
9 writing for approval. The Board-approved primary care physician ("PCP") shall be in charge of
10 providing and coordinating Respondent's medical care and treatment. Except in an *Emergency*,
11 Respondent shall obtain medical care and treatment only from the PCP and from health care
12 providers to whom the PCP refers Respondent. Respondent shall request that the PCP
13 document all referrals in the medical record. Respondent shall promptly inform the PCP of
14 Respondent's rehabilitation efforts and provide a copy of this Order the PCP. Respondent shall
15 also inform all other health care providers who provide medical care or treatment that Respondent
16 is participating in MAP.

17 a. "*Emergency*" means a serious accident or sudden illness that, if not treated
18 immediately, may result in a long-term medical problem or loss of life.

19 6. Medication. Except in an *Emergency*, Respondent shall take no *Medication*
20 unless the PCP or other health care provider to whom the PCP refers Respondent prescribes the
21 *Medication*. Respondent shall not self-prescribe any *Medication*.

22 a. "*Medication*" means a prescription-only drug, controlled substance, and
23 over-the counter preparation, other than plain aspirin, plain ibuprofen, and plain
24 acetaminophen.
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1 7. If a controlled substance is prescribed, dispensed, or is administered to
2 Respondent by any person other than PCP, Respondent shall notify the PCP in writing within 48
3 hours and notify the MAP Director immediately. The notification shall contain all information
4 required for the medication log entry specified in paragraph 8. Respondent shall request that the
5 notification be made a part of the medical record. This paragraph does not authorize Respondent
6 to take any *Medication* other than in accordance with paragraph 6.

7 8. **Medication Log.** Respondent shall maintain a current legible log of all *Medication*
8 taken by or administered to Respondent, and shall make the log available to the Board Staff upon
9 request. For *Medication* (other than controlled substances) taken on an on-going basis,
10 Respondent may comply with this paragraph by logging the first and last administration of the
11 *Medication* and all changes in dosage or frequency. The log, at a minimum, shall include the
12 following:

- 13 a. Name and dosage of *Medication* taken or administered;
- 14 b. Date taken or administered;
- 15 c. Name of prescribing or administering physician;
- 16 d. Reason *Medication* was prescribed or administered.

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18 This paragraph does not authorize Respondent to take any *Medication* other than in accordance
19 with paragraph 6.

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21 9. **No Alcohol or Poppy Seeds.** Respondent shall not consume alcohol or any food
22 or other substance containing poppy seeds or alcohol.

23 10. **Biological Fluid Collection.** During all times that Respondent is physically
24 present in the State of Arizona and such other times as Board Staff may direct, Respondent shall
25 promptly comply with requests from Board Staff or MAP Director to submit to witnessed biological

1 fluid collection. If Respondent is directed to contact an automated telephone message system to
2 determine when to provide a specimen, Respondent shall do so within the hours specified by
3 Board Staff. For the purposes of this paragraph, in the case of an in-person request, "promptly
4 comply" means "immediately." In the case of a telephonic request, "promptly comply" means that,
5 except for good cause shown, Respondent shall appear and submit to specimen collection not
6 later than two hours after telephonic notice to appear is given. The Board in its sole discretion
7 shall determine good cause.

8 **11.** Respondent shall provide Board Staff in writing with one telephone number that
9 shall be used to contact Respondent on a 24 hour per day/seven day per week basis to submit to
10 biological fluid collection. For the purposes of this section, telephonic notice shall be deemed
11 given at the time a message to appear is left at the contact telephone number provided by
12 Respondent. Respondent authorizes any person or organization conducting tests on the
13 collected samples to provide testing results to the Board and the MAP Director.

14 **12.** Respondent shall cooperate with collection site personnel regarding biological fluid
15 collection. Repeated complaints from collection site personnel regarding Respondent's lack of
16 cooperation regarding collection may be grounds for termination from MAP.

17 **13. Out of State Travel and/or Unavailability at Home or Office Telephone**
18 **Number.** Respondent shall provide Board Staff at least three business days advance written
19 notice of any plans to be away from office or home when such absence would prohibit
20 Respondent from responding to an order to provide a biological fluid specimen or from responding
21 to communications from the Board. The notice shall state the reason for the intended absence
22 from home or office, and shall provide a telephone number that may be used to contact
23 Respondent.
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25 **14. Payment for Services.** Respondent shall pay for all costs, including

1 personnel and contractor costs, associated with participating in MAP at the time service is
2 rendered, or within 30 days of each invoice sent to Respondent.

3 15. Examination. Respondent shall submit to mental, physical, and medical
4 competency examinations at such times and under such conditions as directed by the Board to
5 assist the Board in monitoring Respondent's ability to safely perform as a physician and
6 Respondent's compliance with the terms of this Order.

7 16. Treatment. Respondent shall submit to all medical, substance abuse, and mental
8 health care and treatment ordered by the Board.

9 17. Obey All Laws. Respondent shall obey all federal, state and local laws, and all
10 rules governing the practice of medicine in the State of Arizona.

11 18. Interviews. Respondent shall appear in person before the Board and its Staff and
12 MAP committees for interviews upon request, upon reasonable notice.

13 19. Address and Phone Changes, Notice. Respondent shall immediately notify the
14 Board in writing of any change in office or home addresses and telephone numbers.

15 20. Relapse, Violation. In the event of chemical dependency relapse by Respondent
16 or Respondent's use of drugs or alcohol in violation of the Order, Respondent shall promptly enter
17 into an Interim Consent Agreement for Practice Restriction that requires, among other things, that
18 Respondent not practice medicine until further Order of the Board. Respondent may also be
19 required to successfully complete long-term inpatient or residential treatment program for chemical
20 dependency designated by Board Staff and obtain affirmative approval from the Board or the
21 Executive Director to return to the practice of medicine. Prior to approving Respondent's request
22 to return to the practice of medicine, Respondent may be required to submit to witnessed biological
23 fluid collection, undergo any combination of physical examination, psychiatric or psychological
24 evaluation and/or successfully pass the special purpose licensing examination or the Board may
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1 conduct interviews for the purpose of assisting it in determining the ability of Respondent to safely
2 return to the practice of medicine. **In no respect shall the terms of this paragraph restrict the**
3 **Board's authority to initiate and take disciplinary action for violation of this Order.**

4 **21. Notice Requirements.**

5 **(A)** Respondent shall immediately provide a copy of this Order to all employers and
6 all hospitals and free standing surgery centers where Respondent currently has privileges. Within
7 30 days of the date of this Order, Respondent shall provide the Board with a signed statement of
8 compliance with this notification requirement. Upon any change in employer or upon the granting
9 of privileges at additional hospitals and free standing surgery centers, Respondent shall provide
10 the employer, hospital or free standing surgery center with a copy of this Order. Within 30 days of
11 a change in employer or upon the granting of privileges at additional hospitals and free standing
12 surgery centers, Respondent shall provide the Board with a signed statement of compliance with
13 this notification requirement.

14 **(B)** Respondent is further required to notify, in writing, all employers, hospitals and
15 free standing surgery centers where Respondent currently has or in the future gains employment
16 or privileges, of a chemical dependency relapse, use of drugs or alcohol in violation of this Order
17 and/or entry into a treatment program. Within seven days of any of these events Respondent shall
18 provide the Board written confirmation of compliance with this notification requirement.

19 **22. Public Record.** This Order is a public record.

20 **23. Out-of-State.** In the event Respondent resides or practices as a physician in a
21 state other than Arizona, Respondent shall participate in the rehabilitation program sponsored by
22 that state's medical licensing authority or medical society. Respondent shall cause the monitoring
23 state's program to provide written reports to the Board regarding Respondent's attendance,
24 participation, and monitoring. The reports shall be due quarterly on, or before the 15th day of
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1 March, June, September, and December of each year, until the Board terminates this requirement
2 in writing. The monitoring state's program and Respondent shall immediately notify the Board if
3 Respondent: a) is non-compliant with any aspect of the monitoring requirements; b) relapses; c)
4 tests positive for controlled substances; d) has low specific gravity urine drug test(s), missed
5 and/or late urine drug tests, or otherwise rejected urine drug tests; and e) is required to undergo
6 any additional treatment.

7 24. This Order supersedes all previous consent agreements and stipulations between
8 the Board and/or the Executive Director and Respondent.

9 25. The Board retains jurisdiction and may initiate new action based upon any violation
10 of this Order.

11
12 DATED AND EFFECTIVE this 13th day of April 2007.



ARIZONA MEDICAL BOARD

18 By [Signature]
19 TIMOTHY C. MILLER, J.D.
20 Executive Director

21 ORIGINAL of the foregoing filed this
22 13th day of April 2007 with:

23 The Arizona Medical Board
24 9545 East Doubletree Ranch Road
25 Scottsdale, AZ 85258

EXECUTED COPY of the foregoing faxed/mailed
this 13th day of April 2007 to:

Ricky Ochoa
Address of Record

[Signature]